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C O N F I D E N T I A L SECTION 01 OF 02 MEXICO 000071

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SUBJECT: UNHCHR on Mexican Military Justice Cooperation

REF: 09 MEXICO 2341

CLASSIFIED BY: Gustavo Delgado, Political Minister Counselor; REASON:  
1.4(B), (D)

¶1. (SBU) Summary. The United Nations High Commission on Human Rights (UNHCHR) has been frustrated with the Mexican Army (SEDENA) for its lack of cooperation in progressing human rights issues, and has expressed serious concerns about the proceedings of the military justice system. SEDENA's lack of transparency with UNHCHR has complicated the organizations ability to make meaningful progress on human rights issues. End Summary.

#### SEDENA Avoids Human Rights Discussions

¶2. (C) Poloffs met with UNHCHR representative Nira Cardenas, who provided an overview of their relationship with SEDENA following the signing of their agreement in July 2009 on human rights cooperation (REFTEL). Cardenas, the U.N.'s point person on the agreement, complained about SEDENA's failure to work constructively in developing a human rights program. Instead of working with UNHCHR to make real progress, SEDENA's Human Rights Directorate points to the military's participation in various human rights conferences and highlights the log book it issues to every soldier to track their participation in human rights seminars and training as evidence of attention being paid to human rights issues. To date, SEDENA has not invited UNHCHR to evaluate a single human rights training or seminar and as a result, UNHCHR or SEDENA had not begun to create the indices required by the agreement to measure progress. UNHCHR had requested additional information regarding cases involving alleged human rights abuses by soldiers in order to evaluate SEDENA's compliance with international standards, but SEDENA officials responded that they could not comment on on-going investigations or trials. UNHCHR had received no new information.

The Trial

¶3. (C) Rather than invite UNHCHR to a human rights related trial, SEDENA invited representatives to observe a trial for a retired military zone commander charged with illegally possessing a rifle that he allegedly confiscated from a civilian check point. Even though the trial did not provide any insight into SEDENA's investigation or prosecution of a case involving human rights, it did provide direct insight into the military justice system and the manner in which cases are handled. At the time of the proceedings, the Colonel was retired, and the charges against him had been levied five years prior, while the individual was an active duty zone commander. Cardenas believed that the retired Colonel had been living in the community and was not restricted in movement or liberties while awaiting trial.

¶4. (SBU) The trial commenced with a reading of the charges, as well as a dissertation on the legality of the proceedings. Stacked in front of the tribunal were two large piles of papers that supposedly contained official reports detailing the charges and evidence against the Colonel. The papers, however, were never entered into evidence or discussed. The prosecuting attorney presented neither physical evidence nor the actual rifle in question. The defense consisted of little more than a parade of character witnesses that spoke on behalf of the defendant but never really addressed the charges. The trial was oral, as opposed to the inquisitorial proceeding that characterize civilian trials. Six hours of testimony resulted in a not guilty verdict by the panel. The UN representative observed that that if this trial were

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representative of a normal military proceedings, the Mexican military judicial system was grossly lacking in some basic elements of common jurisprudence.

¶5. (SBU) Comment: Despite its historic agreement with the UNHCHR, SEDENA treats the U.N. with the same diversionary tactics it uses with the USG, NGOs, and others. SEDENA's lack of transparency with UNHCHR has complicated the organization's ability to make meaningful progress on human rights issues. Moreover, the UNHCHR representative's observation of the military judicial system appears to affirm deficiencies intrinsic to the system that would make the successful prosecutions of human rights cases in military courts that much more difficult. Nevertheless, the military's willingness to expose its judicial system to the scrutiny of outside observers is a small positive step. We will look to take advantage of this opening by developing programs to work with SEDENA on adopting appropriate measures to reform its judiciary into an institution that effectively and objectively prosecutes violations of law in accordance with internationally respected standards and procedures. End Comment  
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